

**JUDGE MICHAEL'S POLICY REGARDING
FEDERAL RULE OF BANKRUPTCY PROCEDURE 6003**

Judge Michael wants you to be aware of a rule that may affect your bankruptcy practice. Federal Rule of Bankruptcy Procedure 6003 reads as follows:

Rule 6003. Interim and Final Relief Immediately Following the Commencement of the Case--Applications for Employment; Motions for Use, Sale, or Lease of Property; and Motions for Assumption or Assignment of Executory Contracts

Except to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant relief regarding the following:

- (a) an application under Rule 2014;
- (b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition, but not a motion under Rule 4001; and
- (c) a motion to assume or assign an executory contract or unexpired lease in accordance with § 365.

Under this rule, if a party wants one of these orders entered within 21 days of the date the petition is filed, the Court is required to make a finding (based upon evidence, of course) that entry of the order sought “is necessary to avoid immediate and irreparable harm.” This rule will come into play most often in the employment of professionals under Rule 2014 (that’s you). Prior to the effective date of this rule, Judge Michael entered orders approving the employment of professionals on an *ex parte* basis, usually within one or two days of the filing of the application. This rule requires that we change our procedures.

Here’s how we are going to do it. If any of the motions governed by FRBP 6003 are filed within 21 days of the date of the filing of the petition, we will take no action until the expiration of the 21-day period UNLESS the movant (again, that’s you) asks for an expedited hearing AND pleads facts which, if proven, would support a finding that entry of the order “is necessary to avoid immediate and irreparable harm.” We will NOT expedite the process or set the matter for hearing within the 21-day period unless you ask us to. If you file a normal, run-of-the-mill motion governed by FRBP 6003, it will sit until the 21-day period has passed.